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10/559,527	12/02/2005	Mitsutoshi Shinkai	SON-3029	2726

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/559,527	SHINKAI ET AL.
	Examiner	**Art Unit**	
	Aneeta Yodichkas	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 October 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4,5 and 7-13* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,5 and 7-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Pub.

No. 2002/0097645 A1 to *Mikawa*.

As to **claim 12**, *Mikawa* discloses a recording medium having recorded thereon

data that is played back by an information processing apparatus that manages data

wherein a first file including an identifier for identifying a format on the recording

medium, the first file serving to manage data in the format, and a second file including

an identifier that is the same as the identifier, the second file further including label

information describing content of data in the format, are recorded in the format as

mutually different files on the recording medium (Fig. 4 and 5, paragraphs 0090-0111),

where the first file identifier is the content identification information and creation TOD

information on the inserted disc (D), the second file identifier is the content identification

information and the creation TOD information read from HDD (409) and are mutually

different files.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 7-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0097645 A1 to *Mikawa* in view of U.S. Patent No. 6,937,553 B1 to *Mitui et al.*

As to **claim 1**, *Mikawa* discloses an information processing apparatus for managing data that is recorded on a recording medium, the information processing apparatus comprising: copying means for copying an identifier for identifying a format that is managed by a first file for managing information recorded on the recording medium, the identifier being included in the first file (Fig. 2 and 3, paragraph 0076,), where the copy management processor (207) provides the copying means for copying content identification information and the first file is disc 1 (D1); creating means for creating a second file including the identifier copied by the copying means and label information describing content of the data further comprising a setting means for setting the label information (Fig. 2 and 3, paragraphs 0063, 0076), where second file is disc 2 (D2) and the content identification information is copied onto D2 and the TOD information is the label information; wherein the creating means creates the second file including the identifier copied by the copying means and the label information set by the setting means (Fig. 2 and 3, paragraphs 0063, 0076), where second file is disc 2 (D2) and the content identification information is copied onto D2 and the TOD information is the label information, and wherein said label information includes information regarding a representative frame image representing all the frame images of image data included

in the recording medium (Fig. 7, paragraph 0087), where the file management

information is the label which includes the information representative of the frames; and

recording means for recording the second file created by the creating means in the

format identified by the identifier on the recording medium, as a file that is different from

the first file (Fig. 4 and 5, paragraphs 0090-0111), where the first file on disk (D), which

is the content ID information and the creation TOD information from the disk

management information, is compared with the information in the database of HDD

(409) and if they are different, the new information from disk (D) is updated by recording

in the database of HDD (409), which creates a second file; and a comparing means for

comparing an identifier included in the second file with an identifier included in the first

file recorded onto the recording medium (Fig. 4 and 5, paragraph 0110), where

database management unit (405) compares the update TOD information of the disk

management information with the update TOD information read from the disk D.

Mikawa is deficient in disclosing wherein the recording means records the

second file in the format identified by the identifier on the recording medium only when it

is determined as a result of comparison by the comparing means that the identifier

included in the second file matches with the identifier included in the first file.

However, Mitui discloses the recording means records the second file in the

format on the recording medium only when it is determined as a result of comparison by

the comparing means that the identifier included in the second file matches with the

identifier included in the first file (Fig. 14, columns 12-13, lines 44-7), where the

detected area code is compared with the area code acquired from the reproduction

apparatus in step (s802) and if they match, as well as the copy attribute with the

medium ID information in step (s809), where the area code and ID information are the

identifies, reproduction of the duplicate is performed, which is the second file.

At the time of invention, it would have been obvious to a person of ordinary

skilled in the art to have modified the information processing apparatus for managing

data that is recorded on a recording medium as taught by *Mikawa* by including

recording a second file only when it is determined that the second file matches with the

identifier of the first file as taught by *Mitui*. The suggestion/motivation would have been

in order to insure that both discs formats are of the same type from the same region

before performing recording (Fig. 14, column 12, lines 43-55).

As to **claim 7**, *Mikawa* discloses the information processing apparatus

comprising: reading means for reading the second file from the recording medium (Fig.

6 and Fig. 7, paragraphs 106-107); and updating means for updating the label

information included in the second file read by the reading means (Fig. 2, paragraph

47); wherein the comparing means compares an identifier included in the second file

whose label information has been updated by the updating means with an identifier

included in the first file recorded on the recording means (Fig. 4 and Fig. 7, paragraphs

96-99), and wherein the recording means records the second file in the format on the

recording medium only when it is determined as a result of comparison by the

comparing means that the identifier included in the second file coincides with the

identifier included in the first file (Fig. 4 and Fig. 7, paragraphs 96-99).

As to **claim 8**, *Mikawa* discloses the information processing apparatus wherein the recording medium is an optical disc (Paragraph 140).

As to **claim 9**, *Mikawa* discloses the information processing apparatus wherein the recording medium is a semiconductor memory (Paragraph 140).

As to **claim 10**, *Mikawa* discloses an information processing method for an information processing apparatus that manages data that is recorded on a recording medium, the information processing method comprising: a copying step of copying an identifier for identifying a format that is managed by a first file for managing information recorded on the recording medium, the identifier being included in the first file (Fig. 3, paragraphs 62-70); a creating step of creating a second file including the identifier copied by processing in the copying step and label information describing content of the data, further comprising a setting step for setting the label information (Fig. 2 and 3, paragraphs 0063, 0076), where second file is disc 2 (D2) and the content identification information is copied onto D2 and the TOD information is the label information; wherein the creating step creates the second file including the identifier copied by the copying step and the label information set by the setting step (Fig. 2 and 3, paragraphs 0063, 0076), where second file is disc 2 (D2) and the content identification information is copied onto D2 and the TOD information is the label information, and wherein said label information includes information regarding a representative frame image representing all the frame images of the image data included in the recording medium (Fig. 7, paragraph 0087), where the file management information is the label which includes the information representative of the frames; and a recording controlling step of exercising

control so that the second file created by processing in the creating step is recorded in

the format identified by the identifier on the recording medium, as a file that is different

from the first file (Fig. 4 and 5, paragraphs 0090-0111), where the first file on disk (D),

which is the content ID information and the creation TOD information from the disk

management information, is compared with the information in the database of HDD

(409) and if they are different, the new information from disk (D) is updated by recording

in the database of HDD (409), which creates a second file; and a comparing means for

comparing an identifier included in the second file with an identifier included in the first

file recorded onto the recording medium (Fig. 4 and 5, paragraph 0110), where

database management unit (405) compares the update TOD information of the disk

management information with the update TOD information read from the disk D.

Mikawa is deficient in disclosing wherein the recording means records the

second file in the format identified by the identifier on the recording medium only when it

is determined as a result of comparison by the comparing means that the identifier

included in the second file matches with the identifier included in the first file.

However, *Mitui* discloses wherein the recording means records the second file in

the format on the recording medium only when it is determined as a result of

comparison by the comparing means that the identifier included in the second file

matches with the identifier included in the first file (Fig. 14, columns 12-13, lines 44-7),

where the detected area code is compared with the area code acquired from the

reproduction apparatus in step (s802) and if they match, as well as the copy attribute

with the medium ID information in step (s809), where the area code and ID information

are the identifies, reproduction of the duplicate is performed, which is the second file. In

addition, the same motivation is used as the rejection in claim 1.

As to **claim 11**, *Mikawa* discloses a program for allowing a computer to execute

processing for managing data that is recorded on a recording medium, the processing

comprising: a copying step of copying an identifier for identifying a format that is

managed by a first file for managing information recorded on the recording medium, the

identifier being included in the first file (Fig. 3, paragraphs 62-70); a creating step of

creating a second file including the identifier copied by processing in the copying step

and label information describing content of the data, further comprising a setting step for

setting the label information (Fig. 2 and 3, paragraphs 0063, 0076), where second file is

disc 2 (D2) and the content identification information is copied onto D2 and the TOD

information is the label information; wherein the creating step creates the second file

including the identifier copied by the copying step and the label information set by the

setting step (Fig. 2 and 3, paragraphs 0063, 0076), where second file is disc 2 (D2) and

the content identification information is copied onto D2 and the TOD information is the

label information, and wherein said label information includes information regarding a

representative frame image representing all the frame images of the image data

included in the recording medium (Fig. 7, paragraph 0087), where the file management

information is the label which includes the information representative of the frames; and

a recording controlling step of exercising control so that the second file created by

processing in the creating step is recorded in the format identified by the identifier on

the recording medium, as a file that is different from the first file (Fig. 4 and 5,

paragraphs 0090-0111), where the first file on disk (D), which is the content ID

information and the creation TOD information from the disk management information, is

compared with the information in the database of HDD (409) and if they are different,

the new information from disk (D) is updated by recording in the database of HDD (409),

which creates a second file; and a comparing means for comparing an identifier

included in the second file with an identifier included in the first file recorded onto the

recording medium (Fig. 4 and 5, paragraph 0110), where database management unit

(405) compares the update TOD information of the disk management information with

the update TOD information read from the disk D.

 Mikawa is deficient in disclosing wherein the recording means records the

second file in the format identified by the identifier on the recording medium only when it

is determined as a result of comparison by the comparing means that the identifier

included in the second file matches with the identifier included in the first file.

 However, *Mitui* discloses wherein the recording means records the second file in

the format on the recording medium only when it is determined as a result of

comparison by the comparing means that the identifier included in the second file

matches with the identifier included in the first file (Fig. 14, columns 12-13, lines 44-7),

where the detected area code is compared with the area code acquired from the

reproduction apparatus in step (s802) and if they match, as well as the copy attribute

with the medium ID information in step (s809), where the area code and ID information

are the identifies, reproduction of the duplicate is performed, which is the second file. In

addition, the same motivation is used as the rejection in claim 1.

As to **claim 13**, *Mikawa* discloses the information processing apparatus, wherein the first file includes both an identifier and a table including clip information and edit information (Fig. 6 and 7, paragraphs 0086-0087), where the file is the file management information and it includes a list or table of clip or file type, name, path, size and time information.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0097645 A1 to *Mikawa* in view of U.S. Patent No. 6,937,553 B1 to *Mitui et al.* in further view of U.S. Patent Pub. No. 2002/0154898 A1 to *Hisatomi et al.*

As to **claim 4**, *Mikawa* and *Mitui* are deficient in disclosing the information processing apparatus wherein the setting means selectively sets the representative frame image from representative frame images of respective clips recorded on the recording medium.

However, *Hisatomi* discloses the information processing apparatus wherein the setting means selectively sets the representative frame image from representative frame images of respective clips recorded on the recording medium (Fig. 3 and 4, paragraphs 65-0068), where each frame image, or the video object set (80) of the audio video data area (76) are set according to the desired data recorded.

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have created an information processing apparatus for managing data that is recorded on a recording medium as taught by *Mikawa* and *Mitui* by including that it has a creating means for creating a second file and a setting means for selecting sets for the representative frame image as taught by *Hisatomi*. The suggestion/motivation

would have been in order to be able to search or edit an image easily as taught by

Hisatomi (Hisatomi, paragraph 65).

As to **claim 5,** *Mikawa* and *Mitui* are deficient in disclosing the setting means sets

a beginning frame image of a beginning clip as the representative frame image when no

instruction for setting the representative frame image is given

However, *Hisatomi* discloses the setting means sets a beginning frame image of

a beginning clip as the representative frame image when no instruction for setting the

representative frame image is given (Fig. 3, paragraph 63-64). In addition, the same

motivation is used as the rejection for claim 4.

Response to Arguments

Applicant's arguments filed 10/2/09 have been fully considered but they are not

persuasive.

First, Applicant argues, with respect to claim 12, on pages 7-9, lines 8-11, that

Mikawa fails to disclose, "wherein a first file including an identifier for identifying a format

on the recording medium, the first file serving to manage data in the format, and a

second file including an identifier that is the same as the identifier, the second file

further including label information describing content of the data in the format, are

recorded in the format as mutually different files on the recording medium", specifically,

"a first file including an identifier for identifying a format and a second file including an

identifier that is the same as the identifier are recorded in the format as mutually

different files on the recording medium".

Examiner disagrees as *Mikawa* discloses, "a first file including an identifier for

identifying a format and a second file including an identifier that is the same as the

identifier are recorded in the format as mutually different files on the recording medium"

(Fig. 4 and 5, paragraphs 0090-0111), where the first file identifier is the content

identification information and creation TOD information on the inserted disc (D), the

second file identifier is the content identification information and the creation TOD

information read from HDD (409) and are mutually different files.

Second, Applicant argues, with respect to claims 1, 7-11 and 13, on pages 9-12,

lines 12-13 and 20-28, that *Mikawa* and *Mitui* fail to disclose, "recording means for

recording the second file created by the creating means in the format identified by the

identifier on the recording medium, as a file that is different from the first file" and "a

comparing means for comparing an identifier included in the second file with an

identifier included in the first file recorded onto the recording medium, wherein the

recording means records the second file in the format identified by the identifier on the

recording medium only when it is determined as a result of comparison by the

comparing means that the identifier included in the second file matches with the

identifier included in the first file".

Examiner disagrees as *Mikawa* discloses, "recording means for recording the

second file created by the creating means in the format identified by the identifier on the

recording medium, as a file that is different from the first file" (Fig. 4 and 5, paragraphs

0090-0111), where the first file on disk (D), which is the content ID information and the

creation TOD information from the disk management information, is compared with the

information in the database of HDD (409) and if they are different, the new information

from disk (D) is updated by recording in the database of HDD (409), which creates a

second file. Examiner also disagrees as *Mitui* discloses "a comparing means for

comparing an identifier included in the second file with an identifier included in the first

file recorded onto the recording medium, wherein the recording means records the

second file in the format identified by the identifier on the recording medium only when it

is determined as a result of comparison by the comparing means that the identifier

included in the second file matches with the identifier included in the first file" (Fig. 14,

columns 12-13, lines 44-7), where the detected area code is compared with the area

code acquired from the reproduction apparatus in step (s802) and if they match, as well

as the copy attribute with the medium ID information in step (s809), where the area

code and ID information are the identifies, reproduction of the duplicate is performed,

which is the second file. For the reasons stated above, claims 7-9 and 13 are not

patentable.

In response to applicant's argument that the examiner's conclusion of

obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA

1971).

Third, Applicant argues, with respect to claims 4 and 5, on pages 12-14, that

Mikawa, *Mitui*, and *Hisatomi* fail to disclose, a setting means that selectively sets the

representative frame image from representative frame images of the respective clips

recorded on the recording medium. Applicant also argues that *Mikawa*, *Mitui*, and

Hisatomi fail to disclose "wherein the recording means recordings the second file in the

format identified by the identifier on the recording medium only when it is determined as

a result of comparison by the comparing means that the identifier included in the second

file matches with the identifier included in the first file" and a copying means for copying

an identifier for identifying a format that is managed by a first file, recording means for

recoding the second file created by the creating means in the format identified by the

identifier, or a comparing means for comparing an identifier included in the second file

with an identifier included in the first file, wherein the recording means records the

second file in the format identified by the identifier on the recording medium only when it

is determined that the identifier included in the second file matches with the identifier

included in the first file.

Examiner disagrees as *Hisatomi* discloses, a setting means that selectively sets

the representative frame image from representative frame images of the respective clips

recorded on the recording medium (Fig. 3 and 4, paragraphs 65-0068), where each

frame image, or the video object set (80) of the audio video data area (76) are set

according to the desired data recorded. Examiner disagrees that *Mikawa*, *Mitui*, and

Hisatomi fail to disclose "wherein the recording means recordings the second file in the

format identified by the identifier on the recording medium only when it is determined as

a result of comparison by the comparing means that the identifier included in the second

file matches with the identifier included in the first file" and a copying means for copying

an identifier for identifying a format that is managed by a first file, recording means for

recoding the second file created by the creating means in the format identified by the

identifier, or a comparing means for comparing an identifier included in the second file

with an identifier included in the first file, wherein the recording means records the

second file in the format identified by the identifier on the recording medium only when it

is determined that the identifier included in the second file matches with the identifier

included in the first file for the reasons stated above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy

as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Aneeta Yodichkas whose telephone number is (571)

272-9773. The examiner can normally be reached on Monday-Thursday 8-5,

alternating Fridays, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph H. Feild/
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/A.Y./
1/15/10